



General Assembly

Substitute Bill No. 352

February Session, 2004

* SB00352PH 031704 *

AN ACT CONCERNING THE PREFERRED DRUG LIST AND DRUG PRICING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-274d of the general statutes, as amended by
2 section 19 of public act 03-2, section 63 of public act 03-278 and section
3 83 of public act 03-3 of the June 30 special session, is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2004*):

5 (a) Pursuant to 42 USC 1396r-8, there is established a Medicaid
6 Pharmaceutical and Therapeutics Committee within the Department of
7 Social Services. Said committee shall convene on or before March 31,
8 2003.

9 (b) The Medicaid Pharmaceutical and Therapeutics Committee shall
10 be comprised as specified in 42 USC 1396r-8 and shall consist of
11 fourteen members appointed by the Governor. Five members shall be
12 physicians licensed pursuant to chapter 370, including one general
13 practitioner, one pediatrician, one geriatrician, one psychiatrist and
14 one specialist in family planning, four members shall be pharmacists
15 licensed pursuant to chapter 400j, two members shall be visiting
16 nurses, one specializing in adult care and one specializing in
17 psychiatric care, one member shall be a clinician designated by the
18 Commissioner of Mental Health and Addiction Services, one member
19 shall be a representative of pharmaceutical manufacturers and one

20 member shall be a consumer representative. The committee may, on an
21 ad hoc basis, seek the participation of other state agencies or other
22 interested parties in its deliberations. The members shall serve for
23 terms of two years from the date of their appointment. Members may
24 be appointed to more than one term. The Commissioner of Social
25 Services, or the commissioner's designee, shall convene the committee
26 following the Governor's designation of appointments. The
27 administrative staff of the Department of Social Services shall serve as
28 staff for said committee and assist with all ministerial duties. The
29 Governor shall ensure that the committee membership includes
30 Medicaid participating physicians and pharmacists, with experience
31 serving all segments of the Medicaid population.

32 (c) Committee members shall select a chairperson and vice-
33 chairperson from the committee membership on an annual basis.

34 (d) The committee shall meet at least quarterly, and may meet at
35 other times at the discretion of the chairperson and committee
36 membership. The committee shall comply with all regulations adopted
37 by the department, including notice of any meeting of the committee,
38 pursuant to the requirements of chapter 54.

39 (e) On or before July 1, 2003, the Department of Social Services, in
40 consultation with the Medicaid and Pharmaceutical Therapeutics
41 Committee, shall adopt a preferred drug list for use in the Medicaid
42 and ConnPACE programs. To the extent feasible, the department shall
43 review all drugs included in the preferred drug list at least every
44 twelve months, and may recommend additions to, and deletions from,
45 the preferred drug list, to ensure that the preferred drug list provides
46 for medically appropriate drug therapies for Medicaid and ConnPACE
47 patients. [For the fiscal year ending June 30, 2004, such drug list shall
48 be limited to three classes of drugs, including proton pump inhibitors
49 and two other classes of drugs determined by the Commissioner of
50 Social Services.] The commissioner shall notify the joint standing
51 committees of the General Assembly having cognizance of matters
52 relating to human services, public health and appropriations of the

53 classes of drugs on the list by January 1, 2004.

54 (f) Except for mental-health-related drugs and antiretroviral drugs,
55 reimbursement for a drug not included in the preferred drug list is
56 subject to prior authorization. No prior authorization shall be required
57 if the patient was using a drug not included in the preferred drug list
58 for the treatment of a chronic illness prior to the adoption of the
59 preferred drug list.

60 (g) The Department of Social Services shall publish and disseminate
61 the preferred drug list to all Medicaid providers in the state.

62 (h) The committee shall ensure that the pharmaceutical
63 manufacturers agreeing to provide a supplemental rebate pursuant to
64 42 USC 1396r-8(c) have an opportunity to present evidence supporting
65 inclusion of a product on the preferred drug list unless a court of
66 competent jurisdiction, in a final decision, determines that the
67 Secretary of Health and Human Services does not have authority to
68 allow such supplemental rebates, provided the inability to utilize
69 supplemental rebates pursuant to this subsection shall not impair the
70 committee's authority to maintain a preferred drug list. Upon timely
71 notice, the department shall ensure that any drug that has been
72 approved, or had any of its particular uses approved, by the United
73 States Food and Drug Administration under a priority review
74 classification, will be reviewed by the Medicaid Pharmaceutical and
75 Therapeutics Committee at the next regularly scheduled meeting. To
76 the extent feasible, upon notice by a pharmaceutical manufacturer, the
77 department shall also schedule a product review for any new product
78 at the next regularly scheduled meeting of the Medicaid
79 Pharmaceutical and Therapeutics Committee.

80 (i) Factors considered by the department and the Medicaid
81 Pharmaceutical and Therapeutics Committee in developing the
82 preferred drug list shall include, but not be limited to, clinical efficacy,
83 safety and cost effectiveness of a product.

84 (j) The Medicaid Pharmaceutical and Therapeutics Committee may

85 also make recommendations to the department regarding the prior
86 authorization of any prescribed drug covered by Medicaid in
87 accordance with the plan developed and implemented pursuant to
88 section 17b-491a.

89 (k) Medicaid recipients may appeal any department preferred drug
90 list determinations utilizing the Medicaid fair hearing process
91 administered by the Department of Social Services established
92 pursuant to chapter 54.

93 (l) The provisions of this section shall apply to the state-
94 administered general assistance program.

95 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) For purposes of this
96 section:

97 (1) "Health care provider" means any person, corporation, limited
98 liability company, facility or institution operated, owned or licensed in
99 this state to provide health care or professional services, or an officer,
100 employee or agent thereof acting in the course and scope of his or her
101 employment.

102 (2) "Pharmaceutical marketer" means a person who, while employed
103 by or under contract to represent a pharmaceutical manufacturing
104 company, engages in pharmaceutical detailing, promotional activities
105 or other marketing of prescription drugs in this state to any health care
106 provider. "Pharmaceutical marketer" does not include a wholesale
107 drug distributor or the distributor's representative who promotes or
108 otherwise markets the services of the wholesale drug distributor in
109 connection with a prescription drug.

110 (3) "Detailing" means a meeting between a pharmaceutical marketer
111 and a health care provider in this state for the purpose of discussing a
112 pharmaceutical product being marketed by the pharmaceutical
113 marketer.

114 (4) "Pharmaceutical manufacturing company" means any entity that

115 is engaged in the production, preparation, propagation, compounding,
116 conversion or processing of prescription drugs, either directly or
117 indirectly by extraction from substances of natural origin, or
118 independently by means of chemical synthesis, or by a combination of
119 extraction and chemical synthesis, or any entity engaged in the
120 packaging, repackaging, labeling, relabeling or distribution of
121 prescription drugs, but does not include a wholesale drug distributor
122 or pharmacist licensed under chapter 400j of the general statutes.

123 (5) "Market price" means the current estimate of the price at which a
124 particular drug is sold by retail pharmacies in this state.

125 (b) Any pharmaceutical marketer engaged in detailing or other
126 pharmaceutical marketing in this state shall disclose to any health care
127 provider the market price of the drug being detailed or marketed to
128 such health care provider. Each pharmaceutical manufacturing
129 company doing business in this state shall cause all written marketing
130 materials distributed to health care providers in this state to contain
131 information regarding the market price of the drug that is the subject
132 of the marketing materials.

133 Sec. 3. (*Effective July 1, 2004*) (a) The Commissioner of Public Health
134 shall convene a working group to review drug advertising and
135 marketing practices and their effect on public health and medical costs.
136 The working group shall survey the (1) effects of drug advertising and
137 marketing on prescribing patterns, and (2) costs to the state and
138 private payors arising out of drug advertising and marketing. The
139 working group shall make recommendations for legislation to reduce
140 any negative health care effects resulting from drug advertising and
141 marketing practices, and to limit unwarranted costs to the state and
142 private payors from drug advertising and marketing.

143 (b) The members of the working group shall be:

144 (1) A representative from a health care consumer advocacy group
145 appointed by the president pro tempore of the Senate;

146 (2) A representative from a pharmaceutical company appointed by
147 the speaker of the House of Representatives;

148 (3) A member appointed by the minority leader of the House of
149 Representatives;

150 (4) A member appointed by the minority leader of the Senate;

151 (5) A representative from the Connecticut State Medical Society;

152 (6) The chairpersons of the joint standing committee of the General
153 Assembly having cognizance of matters relating to public health, or
154 their designees; and

155 (7) The Commissioner of Public Health, or a designee.

156 (c) Not later than December 1, 2004, the working group shall submit,
157 in accordance with section 11-4a of the general statutes, a report on its
158 findings and recommendations to the joint standing committees of the
159 General Assembly having cognizance of matters relating to public
160 health, appropriations and the budget of the state, human services and
161 insurance.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>July 1, 2004</i>

PH *Joint Favorable Subst.*